

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JHEN SCUTELLA,

Plaintiff,

v.

ERIE COUNTY PRISON, et al.,

Defendants.

Case No. 1:23-cv-116-SPB

ORDER OF DISMISSAL

This *pro se* civil rights action was commenced by Plaintiff Jhen Scutella on April 27, 2023 and referred to Chief United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Civil Rule 72(b). ECF No. 1. Plaintiff is a detainee at the Erie County Prison who has sued the prison, the Warden and Deputy Warden, Wexford Health Services, and several individuals who provided medical and/or dental services to him during the course of his confinement. The gravamen of the complaint is that the Defendants violated Plaintiff's constitutional rights by failing to provide him with adequate dental care during his detention. Plaintiff seeks redress under 42 U.S.C. §1983.

Pending before the Court is Plaintiff's motion for a preliminary injunction, ECF No. [12]. Therein, Plaintiff states that he intends to file another federal lawsuit against the prison, Wexford Health Services, and Trinity Food Services, but he cannot exhaust his administrative remedies because he is "unable to access the grievance system due to the screening process that is in place." ECF No. 12, ¶1. He asks the Court "for a hearing on said matter or grant an injunction to make grievances readily available to all inmates, including Plaintiff." *Id.* at 2.

On December 1, 2023, Judge Lanzillo issued a Report and Recommendation (“R&R”) in which he opined that Plaintiff was not entitled to preliminary injunctive relief. ECF No. 19. Judge Lanzillo concluded that the preliminary injunction motion did not establish a sufficient nexus or connection between the allegations and claims raised in his Complaint and the relief Plaintiff seeks in the motion, because the motion requests injunctive relief in order to facilitate the filing of a separate lawsuit. Judge Lanzillo further concluded that Plaintiff’s own allegations demonstrated the inappropriateness of injunctive relief, because:

[i]f Scutella is correct that prison officials have prevented him from filing a grievance, the law already provides him with an adequate remedy to prevent the very harm he allegedly fears -- the loss of his claims due to a failure to exhaust. That argument, however, is only appropriate to raise in his threatened future suit. It is not appropriately raised in this action.

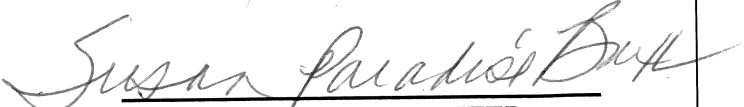
ECF No. 19 at 5.

Objections to the R&R were due no later than December 18, 2023. To date, no objections have been filed.

Accordingly, after *de novo* review of the operative pleading and documents in the case, including Plaintiff’s motion for a preliminary injunction, along with the Magistrate Judge’s Report and Recommendation, the following order is entered:

AND NOW, this 27th day of December, 2023, IT IS ORDERED that Plaintiff’s motion for a preliminary injunction, ECF No. [12], shall be, and hereby is, DENIED.

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, issued on December 1, 2023, ECF No. [19], is adopted as the opinion of this Court.


SUSAN PARADISE BAXTER
United States District Judge